



Serial Nos. 07 & 08
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 5 of 2025 with
BA. No. 6 of 2025

Date of Decision: 11.03.2025

BA. No. 5 of 2025

Shri. Sujit Kumar Rai
Son of Shri. Upendra Rai
Resident of Nongmynsong,
Dongkadiang, Lane-3, Shillong-19,
East Khasi Hills.

.....Accused Person

Through,

Shri. Krishna Kumar Rai
Son of Shri. Upendra Rai
of Nongmynsong, Dongkadiang,
Lane-3, Shillong-793019,
East Khasi Hills, Meghalaya.

.....Petitioner

- Vs-

The Union of India represented
by Shri. Indranil Chaliha Custom
Headquarter (Preventive) Unit,
Shillong.

.....Respondent

BA. No. 6 of 2025

Shri. Dilu Joy Reang,
Son of Jogen Reang of
Ahalyapur, North Tripura
Presently in District Prisons &
Correctional Home, Nongpoh.

.....Petitioner



- Vs -

The Union of India represented
by Shri. Indranil Chaliha Custom
Headquarter (Preventive) Unit,
Shillong.

.....Respondent

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)	:	Mr. S. Pandit, Adv.
For the Respondent(s)	:	Mr. J.I. Nongrum, Adv. Ms. R. Fancon, Adv. vice Dr. N. Mozika, DSGI.

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

COMMON JUDGMENT AND ORDER (ORAL)

1. These bail applications involving similar and identical facts are proposed to be disposed of by this common judgment and order.

2. The facts as set out in BA. No. 5 of 2025 is that the petitioner's brother, Shri. Sujit Kumar Rai is one of the accused person in CrI. (NDPS) Case No. 8 of 2023 pending before the Court of the learned Special Judge (NDPS) at Nongpoh, Ri-Bhoi District. Similarly, the petitioner, Shri. Dilu Joy Reang in BA. No. 6 of 2025 is also one of the accused person in the



aforementioned case.

3. Heard Mr. S. Pandit, learned counsel, who has submitted that the accused persons, Shri. Sujit Kumar Rai and Shri. Dilu Joy Reang were arrested in connection with Customs Seizure Case No. 01/CL/NDPS/GANJA/HQRS.PREV./SH/2023-24 dated 24.05.2023, which case refers to an incident of interception, search and seizure of a Local Taxi bearing Registration No. ML 05 Q 6794, wherein the accused person, Shri. Sujit Kumar Rai, who is the cousin brother of the driver of the said vehicle and the accused person, Shri. Dilu Joy Reang, on reaching Bhoirymbong market, alleged contraband substance (Ganja) of 149.550 Kgs were discovered and seized from a forested area at Liarbang, Ri-Bhoi District, the occupants of the said Local Taxi being linked to the discovery and seizure of the said contraband substance. Accordingly, on the case being registered under the relevant provision of the NDPS Act, the accused persons in question along with other co-accused person were arrested. On the charge sheet being filed, the Investigating Officer has come to a finding that a prima facie case is well made out against the accused persons in question along with the other co-accused person, and under the relevant provision of the NDPS Act, they are directed to be tried before the Trial Court.



4. The learned counsel also submits that the stage of the case is now for framing of charge. The learned Trial Court, on consideration of charges, have come to the conclusion that the accused persons in question along with the other co-accused person are to stand trial for the said offence alleged.

5. It is the further submission of the learned counsel that, at this stage, though, there is no evidence whatsoever against the accused persons in question, the fact that they are in custody for the last one year and nine months plus, the trial not having been proceeded expeditiously, therefore, on the ground of prolonged delay in the trial, the petitioner/accused have made a prayer before this Court for grant of bail.

6. Stressing on the point of prolonged delay of the trial, the learned counsel has referred to a number of cases, wherein the Hon'ble Supreme Court, on this ground, i.e. on delay of the trial and the accused person being in custody, therefore, bail was granted even without going into the merits of the case. In this regard, the learned counsel has referred to the case of Man Mandal & Anr v. The State of West Bengal, wherein the Hon'ble Supreme Court vide order dated 14.09.2023 passed in Special Leave to Appeal (Crl.) No(s). 8656/2023, had observed at para 6 as follows:

“6. Taking into consideration the fact that the petitioners have been incarcerated for a period of almost two years and the



trial is not likely to be taken up for hearing in the immediate near future, we are inclined to grant bail to the petitioners.”

7. Another case cited by the learned counsel is the case of Hasanujjaman & Ors. v. The State of West Bengal, wherein at para 4 and 5 of the same, the Hon’ble Supreme Court has observed as follows:

“4. The Investigation is complete; chargesheet has been filed, though the charges are yet to be framed. The conclusion of trial will, thus, take some reasonable time, regardless of the direction issued by the High Court to conclude the same within one year from the date of framing of charges. The petitioners do not have any criminal antecedents. There is, thus, substantial compliance of Section 37 of the NDPS Act.

5. In such circumstances, but without expressing any views on the merits of the case, we deem it appropriate to release the petitioners on bail subject to the terms and conditions as may be imposed by the Trial Court.”

8. It is therefore prayed that these petitions may be allowed and the accused persons may be enlarged on bail with any conditions as deemed fit and proper to be imposed by this Court.

9. Per contra, J.I. Nongrum, learned counsel vice Dr. N. Mozika, learned DSGI on behalf of the respondent/Union of India, has opposed the prayer made in these petitions, and has submitted that the case has proceeded in its normal course before the Trial Court. In fact, charges are slated to be framed on 13.03.2025. The learned counsel has, however, admitted that the



Trial Court, vide order dated 21.10.2024, had fixed the matter for framing of charge, but because of certain intervening circumstances such as, the resignation of the then PP, the Presiding Officer of the court being out on training and other reasons including court vacation, therefore, the charges could not be framed. Another leg of argument is that the accused persons being residents of Shillong, there is every likelihood that they may tamper with the evidence or intimidate the witnesses, and there is also a possibility that they may abscond, if enlarged on bail. As such, the prayer made may not be allowed.

10. The learned counsel has again stressed on the fact that since, Section 37 of the NDPS is applicable in this case, the seizure of the contraband substance being of commercial quantity, therefore, as no reasonable grounds has been cited to strengthen the case of the petitioner/accused as far as their guilt or innocence are concerned, this Court, would therefore incline to the fact that the presumption of guilt is to be adopted, and accordingly, under such circumstances, bail may not be granted.

11. This Court has carefully considered the submission made, the merits of the case need not be gone into at this stage, since the same are



before the Trial Court for consideration. The fact that the accused persons in question has been made to stand trial, will only emphasized their complicity as far as the case is concerned.

12. It is however the contention of the learned counsel for the petitioner/accused that the accused persons in question has no past criminal antecedent, meaning that they are not involved in any criminal cases or charges. The fact that the accused persons have also been in custody for almost 2 years barring a few months, has also to be taken note of by this Court, since on this premise, a number of decisions have been referred by the Apex Court to lean in favour of the accused persons as far as the question of bail is concerned.

13. Under the peculiar facts and circumstances of the case before the Trial Court, this Court could not, but agree with the observations made by the Hon'ble Supreme Court at para 4 and 5 of the Hasanujjaman case to say that the circumstances cited therein are similar to the case of the accused persons in question.

14. Since the charges are yet to be framed, even, if the same are framed within a day or two, as has been submitted by the learned counsel for the respondent/Union of India, for the start of the recording of evidence of



the witnesses till its completion, the matter may take a few more months, if not years.

15. The reliance of the learned counsel for the respondent/Union of India on the provision of Section 37 of the NDPS as far as this instant case is concerned, again the observation of the Hon'ble Supreme Court in the case of Hasanujjaman at para 4, would cover this aspect of the matter. Accordingly, in view of the above, this Court is inclined to allow these petitions and direct that the accused persons in question be released on bail on the following conditions that:

- i) They shall not abscond or tamper with the evidence and witnesses;
- ii) They shall appear before the Trial Court as and when required;
- iii) They shall not leave the jurisdiction of Meghalaya without prior permission of the Trial Court; and
- iv) They shall bind themselves on a personal bond of ₹ 1,00,000/- (Rupees one lakh) with one surety of like amount to the satisfaction of the Trial Court;



16. Failure to adhere to any of the conditions stated above, would allow the prosecution to file an application for cancellation of the bail before the Trial Court.

17. In view of the above, these petitions are disposed of accordingly.

Judge